

1 **AMENDMENTS TO INDIVIDUAL INCOME TAX**
2 **CREDIT FOR SPECIAL NEEDS ADOPTIONS**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Parley G. Hellewell**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Individual Income Tax Act relating to a tax credit for special
10 needs adoptions.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ amends the definition of "child who has a special need";

13a **→** ▶ **Requires that an adoption occur in this state for a taxpayer to be eligible**
13b **for a tax credit; and**

14 [~~————→ provides that a taxpayer may not claim a tax credit if the taxpayer adopts a child of~~
15 ~~the taxpayer's spouse;~~

16 ~~————→ grants rulemaking authority to the State Tax Commission to define "child of the~~
17 ~~taxpayer's spouse"; and] ←**→**~~

18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill has retrospective operation for taxable years beginning on or after January 1,
23 2005.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **59-10-133**, as last amended by Chapter 63, Laws of Utah 2003



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **59-10-133** is amended to read:

30 **59-10-133. Tax credits for special needs adoptions.**

31 (1) ~~[For purposes of]~~ As used in this section, a "child who has a special need" means a
 32 child ~~[-(a) for whom permanent custody has been awarded to the Utah Division of Child and
 33 Family Services; (b) who cannot or should not be returned to the home of the child's biological
 34 parents; and (c)]~~ who meets at least one of the following conditions:

35 ~~[(i)]~~ (a) the child is five years of age or older;

36 ~~[(ii)]~~ (b) the child:

37 (i) is under the age of 18 ~~[with]; and~~

38 (ii) has a physical, emotional, or mental disability; or

39 ~~[(iii)]~~ (c) the child is a member of a sibling group placed together for adoption.

40 (2) ~~§→~~ ~~[F] For~~ ~~[Except as provided in Subsection (3), for]~~ ~~←§~~ taxable years beginning on
 40a or after

41 January 1, ~~[2001]~~ 2005, a taxpayer who adopts **§ IN THIS STATE §** a child who has a special need
 41a may claim on the

42 taxpayer's individual income tax return for the taxable year a refundable credit of \$1,000
 43 against taxes otherwise due under this chapter for:

44 (a) adoptions for which a court issues an order granting the adoption on or after
 45 January 1, ~~[2001]~~ 2005;

46 (b) the taxable year during which a court issues an order granting the adoption; and

47 (c) each child who has a special need whom the taxpayer adopts.

48 ~~§→~~ ~~[(3) (a) Notwithstanding Subsection (2), a taxpayer may not claim a tax credit under this
 49 section if the taxpayer adopts a child of the taxpayer's spouse.~~

50 ~~[(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 51 commission may by rule define "child of the taxpayer's spouse."]~~

52 ~~[F] (3) [~~4~~]~~ ~~←§~~ The credit provided for in this section may not be carried forward or carried
 53 back.

54 ~~§→~~ ~~[F] (4) [~~5~~]~~ ~~←§~~ Nothing in this section shall affect the ability of any taxpayer who adopts a
 55 child who has a special need to receive adoption assistance under Section 62A-4a-907.

56 Section 2. **Retrospective operation.**

57 This bill has retrospective operation for taxable years beginning on or after January 1,
 58 2005.

Legislative Review Note

as of 12-16-04 12:11 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0125

Amendments to Individual Income Tax Credit for Special Needs Adoptions 02-Feb-05
10:47 AM

AMENDED BILL

State Impact

Any impact as a result of passage of this bill is expected to be minimal.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst